

Citizen Charter Review Committee

January 28, 2010

5:30 p.m.

Leon County Courthouse

Commission Chambers, 5th floor

- I. Call to Order
- II. Invocation and Pledge
- III. Roll Call
- IV. Approval of Minutes of Previous Meeting
 - 1. January 21, 2010 Meeting Minutes
- V. Reports of Chairperson
- VI. Presentations by Invited Guests/Consultant
- VII. Remarks of Interested Citizens
- VIII. Unfinished Business
 - 1. Issues Agenda
 - a. Citizen Utility Advisory Board
 - b. Campaign Contribution Limitation
 - c. Human Rights Policy
 - d. Independent/Advisory CRC
- IX. New Business
 - 1. Decision Agenda
 - a. Functional Consolidation of Growth Management
 - b. Tourist Development Council Structure
 - c. Audit Clarification
 - d. Petition Thresholds
 - 2. Staff/Consultant Discussion (Pertinent Updates)
 - 3. Member Discussion (Direction to Staff/Consultant)
- X. Adjournment with Day Fixed for Next Meeting

*The next meeting of the Citizen Charter Review Committee is scheduled for
Thursday, February 4, 2010 at 11:30 a.m.*

I.

CALL TO ORDER

II.

INVOCATION AND PLEDGE

III.

ROLL CALL

IV.

APPROVAL OF MINUTES OF PREVIOUS MEEINTG

**Leon County
2009-2010 Citizens Charter
Review Committee (CRC)
January 21, 2010**

The Leon County 2009-2010 Citizens Charter Review Committee (CRC) met on January 21, 2010 in the Commission Chambers with Committee members Christopher Holley (Chair), Marilyn Wills, Lance de-Haven Smith, Linda Nichol森, Chuck Hobbs, Jon Ausman, Larry Simmons, Tom Napier, Cathy Jones, Ralph Mason, Lester Abberger, Sue Dick, Donna Harper, Rick Bateman, and David Jacobsen in attendance. Also attending were County Administrator Parwez Alam, Deputy County Administrator Vincent Long, Assistant County Attorney Patrick Kinni, Facilitator Kurt Spitzer, Special Projects Coordinator Shington Lamy, and Clerk Rebecca Vause.

I. Call to Order:

Chairman Holley Called the Meeting to Order at 11:35 a.m.

II. Invocation and Pledge:

The Invocation was provided by Chairman Holley, who then led the Pledge of Allegiance.

III. Roll Call:

The Roll was conducted by Shington Lamy who confirmed that a quorum was present.

IV. Approval of the Minutes:

Lester Abberger moved, duly seconded by Tom Napier, to approve the January 14, 2010 meeting minutes. The motion carried unanimously.

V. Reports of Chairman

- Thanked Vice Chair Marilyn Wills for her strong leadership in Chairing the January 14 meeting and complimented the Committee on their good work.
- Expressed concern that two issues (human rights policy and campaign contribution limitations) had been added to the Committee's agenda at the January 14, 2010 meeting. He pointed out that per the by-laws, January 7, 2010 had been established as the cut-off date for additional issues to be considered and was troubled about a "waiving" of the by-laws. Chairman Holley stated that he was more concerned about establishing a precedent and complying with the rules set forth by the Committee, rather than the issues.

Lester Abberger explained that he requested that the CRC readdress campaign contribution limitation as additional information had been received since initial discussions by the Committee; however would yield to the sentiments of the rest of the Committee on this issue.

Sue Dick agreed that the Committee has many issues to be addressed and suggested that the Committee adhere to the by-laws and not add the two additional topics.

Patrick Kinni, Assistant County Attorney, affirmed that the Board by a super majority vote can place issues on the ballot that was not recommended by the CRC.

Ralph Mason concurred that the rules should be adhered to however; he deemed this issue important and should not be discounted because of a deadline established by the by-laws.

Rick Bateman moved, duly seconded by Tom Napier, to repudiate the Committee's action of approving the addition of human rights and campaign contribution limitations to its agenda. With emphasis that this is being done only because of the CRC's desire to abide by its adopted rules.

Jon Ausman remarked that his interpretation of Rule 10.A. Issues Agenda of the by-laws does allow for issues to be added for discussion; thus the two issues should remain on the agenda.

Assistant County Attorney Kinni opined that the action taken by the CRC at its previous meeting to waive the rules could be considered a motion to amend the by-laws to change the date that issues can be considered from January 7, 2010 to January 14, 2010. He noted that the CRC's action was approved by a unanimous vote.

Mr. Bateman stated that pursuant to Mr. Kinni's interpretation that the CRC's action at the January 14 meeting to allow the addition of the two issues was an amendment to the by-laws, he withdrew his motion.

Jon Ausman moved, duly seconded by Donna Harper, to move the agenda. No action was taken on this motion.

*Rick Bateman moved, duly seconded by Jon Ausman, to amend the date in the by-laws **Rule 10. Deliberations: A. Issues Agenda** from January 7, 2010 to January 14, 2010. The motion carried 15-0.*

VI. Remarks of Interested Citizens:

- Sonia Fancher, 3693 Corinth Drive, suggested that the Charter be amended to better define the word "reside" when addressing qualification of candidates seeking and holding county commission seats and asked for consideration of term limits for county commissioners. A copy of Ms. Fancher's comments was provided to committee members.
- Dennis Barton, 924 Hillcrest Court, established that his comments, which were provided via e-mail had been distributed to committee members. He suggested that the Committee adopt the language submitted by Consultant Kurt Spitzer, which would prohibit elected officials, their employees and employees of Leon County from serving on the CRC. He expressed support for diversity in appointments and that individuals be considered who are not immersed in politics.

VII. Unfinished Business:

None

VIII. New Business:

1. Charter Issues

a. Employment Policy of the County Administrator

Mr. Spitzer shared that information, along with sample language, had been provided on this issue. He explained that the suggested language provides that the county administrator is hired by a majority plus one vote of the Board of County Commissioners and terminated by a similar vote OR a simple majority vote that occurs during two regularly scheduled consecutive meetings of the County Commission.

Mr. Ausman submitted the idea that two meetings be required: one to announce intent to fire and a second to take action. He added that a super majority would be required to fire.

Mr. Bateman indicated agreement and remarked that he favored a “five to hire and five to fire” policy adding that a majority vote would be needed to schedule the action.

Continued comment was received by other members voicing support to require a required majority vote to hire and fire; however there was concern expressed over the two consecutive meeting to fire option.

Mr. Ausman moved, duly seconded by Donna Harper, that appropriate language be drafted that termination of the County Administrator would require action at two consecutive regularly scheduled meetings: first meeting: five votes required to notice the intent to terminate and second meeting: five votes needed to terminate. In addition, five votes would be required to hire.

Mr. Spitzer advised that the action proposed by the Committee is a more stringent policy that he has proposed.

Ms. Harper spoke against the motion, opining that a simple majority vote requirement at two regularly scheduled consecutive meetings with public input should remain to keep the balance of power.

Motion carried 14-1 (Donna Harper in opposition)

b. Non-Interference Clause

Mr. Spitzer shared that information, along with sample language, had been provided on this issue. He explained that this is a common clause found in county and city charters and exists to prohibit county commissioners from giving instructions to employees of the County Administrator.

Mr. Abberger clarified with Mr. Spitzer that the non-interference policy would in no way prohibit a county commissioner from responding to a citizen complaint or inquiry, but merely require that the requests go through the county administrator.

Jon Ausman moved, duly seconded by Lester Abberger, that the proposed non-interference clause be included in the Leon County Charter. The motion carried unanimously.

c. Clarification of Petition Prohibition:

Mr. Spitzer indicated that there are two sections of the current Charter that pertain to the petition process; one for ordinances by petition and one for charter amendments by petition. Mr. Spitzer suggested that there is a list of prohibited subjects in the Sec. 4.1. (4) of the Charter that are subjects that an ordinance presented by petition may not deal with. He reported that it is very common for Charters to contain a list of prohibited subjects, i.e., budget, debt, zoning of land, etc. This suggestion clarifies that the same prohibitions also apply to Charter amendments that are proposed by petition.

Mr. Ausman stated that he was troubled by the current petition process and is unsure that ordinances by petition should be included in the Charter. This concern was echoed by Mr. Bateman who offered that ordinances are very detailed and should be thoroughly vetted by staff prior to adoption. However, he expressed that this issue could be address through establishment of a petition threshold.

Chairman Holley indicated concern over the removal of citizen's rights.

Rick Bateman moved, duly seconded by Lance de-Haven Smith, to include the list of prohibitions of issues that can be taken up by the petition process, by duplicating the list found in Section 4.1.(4) of the existing Charter. The motion carried unanimously.

d. CRC Membership Eligibility:

Mr. Spitzer relayed that the great majority of Charters have at least some restrictions on who can serve on a Charter Review Committee; these restrictions typically include elected officials, and may include staffs of the County and Constitutional Officer.

Mr. Bateman opined that the term "employees of local government" was too broad and would be too exclusive.

Chairman Holley articulated that the Board has a tough task as they want to balance diversity, along with making appointments of individuals who have an understanding of the interworking of government and of the issues.

Cathy Jones, as a CRC member who is an employee of the County, articulated the various reasons why her appointment was appropriate. She proclaimed that she has been a resident of Leon County for over 20 years and in her current role is "in touch" with issues affecting and of most concern to county residents. She offered that prohibiting Leon County employees would affectively hurt the process and thought should be given before a citizen's right to serve is removed. Ms. Jones stated for the record that no one within the county, including administration and commission, has attempted to influence her vote on any issue.

Sue Dick concurred that CRC members be a County resident and suggested that Leon County employees be excluded. She suggested that a minimum number of government representatives be appointed and that the CRC Chairman not be a governmental employee. She indicated that she strongly supported a diverse representation and that the Committee has representation from the private sector.

Mr. Spitzer offered, should the issue be placed on the Decision Agenda, to bring back information that includes directive language.

Mr. Bateman emphasized that he was against barring all County employees and indicated that he would like to see language brought back which incorporated Ms. Dick's suggestions.

Mr. Abberger indicated that he would like language brought back also and opined that Commissioners' discretion in making committee appointments should be almost absolute. He is hesitant to place quotas.

Chairman Holley summarized that language should prohibit elected officials and inclusion of county employees can be debated at a later date.

Mr. Mason asked that student representation be continued.

Sue Dick moved, duly seconded by Jon Ausman, to direct staff to bring back language to include: requirement that appointee be a County resident; prohibits elected officials from serving on CRC; set criteria for appointment and role of CRC Chairman, and suggestion on the number of public sector employees to serve.

Mr. Bateman requested a friendly amendment that the CRC include a student representative. The friendly amendment was accepted by Ms. Dick. The motion as amended carried unanimously.

e. CRC Convening Schedule:

Mr. Spitzer provided a summary of the options available.

Lester Abberger moved, duly seconded by Tom Napier, that the issue remains as currently stated in the Charter. The motion carried unanimously.

f. Independent/Advisory CRC

Lester Abberger moved, duly seconded by Rick Bateman, to retain the current process that issues move from the CRC to the Commission for placement on the ballot.

Mr. de-Haven Smith voiced support for issues to go directly to ballot from the CRC and indicated that he would vote against the current motion.

A substitute motion was made by Lance de-Haven Smith and duly seconded by Jon Ausman, to accept the language proposed by Mr. Spitzer which allows an issue to go directly to the ballot by an extraordinary majority (2/3) vote of the Citizen Review Committee.

Ms. Harper offered that the make-up, direction and operation of the CRC would need to be addressed if its charge is to place issues directly onto the ballot for citizen consideration.

The substitute motion failed 7-8 (Chris Holley, Tom Napier, Dave Jacobsen, Lester Abberger, Sue Dick, Linda Nicholzen, Chuck Hobbs and Donna Harper in opposition)

The original motion to retain the current process failed 6-9 (Tom Napier, Cathy Jones, Ralph Mason, Lance de-Haven Smith, Larry Simmons, Jon Ausman, Donna Harper, Rick Bateman, and Marilyn Wills in opposition).

There continued to be discussion on this issue.

Donna Harper moved, duly seconded by Sue Dick, to postpone this item to a future meeting. The motion carried 14-0 (Cathy Jones out of Chambers).

Subsequently, Jon Ausman moved, duly seconded by Ralph Mason, to postpone the remaining New Business Items (Human Rights Policy; Citizen Utility Advisory Board, and Campaign Contribution Limitation) to the next meeting. The motion carried unanimously.

IX. Economic Development Presentation

Ms. Dick stated that the Committee had indicated an interest, pursuant to discussion regarding the functional consolidation of economic development offices, to better understand the economic development efforts that currently exist within the community. The following individuals were introduced and provided an overview of their respective areas:

- Beth Kirkland, Executive Director, Economic Development Council;
- Kim Moore, President/CEO, WorkForce Plus;
- Michael Parker, City of Tallahassee, and
- Ken Morris, Leon County

X. Adjournment with Day Fixed for Next Meeting

The next meeting of the Citizen Charter Review Committee is scheduled for Thursday, January 28, 2010 at 5:30 p.m.

Chairman Holley adjourned the meeting at 1:50 p.m.

LEON COUNTY

ATTEST:

Christopher Holley, Chairman

Bob Inzer, Clerk of Court

V.

REPORTS OF CHAIRPERSON

VI.

PRESENTATIONS BY INVITED GUESTS/CONSULTANT

VII.

REMARKS OF INTERESTED CITIZENS

VIII.

UNFINISHED BUSINESS

- a. Citizen Utility Advisory Board**
- b. Campaign Contribution Limitation**
- c. Human Right Policy**
- d. Independent/Advisory CRC**



MEMORANDUM

TO: Leon County Charter Review Committee
FROM: Kurt Spitzer
DATE: January 25, 2010
RE: January 28th Meeting Materials

There are four issues that remain on your discussion agenda and an additional four that are calendared for your decision agenda this coming Thursday. Those on your discussion agenda are reviewed below.

Utility Advisory Board

The specific role and responsibilities of such an entity needs to be identified. If the intent is to create an authority that has control over utility rates or some other aspect of utility services, many more months of study are necessary to determine, discuss and debate numerous policy, program and procedural questions, especially since Leon County does not currently provide electric, gas or water/sewer services. Note also that such an amendment would face a difficult approval process, even if adopted by the CRC and the County Commission.

If the objective is to create a body that is advisory in nature, this could be accomplished by charter amendment or by resolution of the County, or a joint resolution of the County and City. Given the City of Tallahassee's (and that of Talquin Electric) long standing provision of electric services, the question of the efficacy of such a body must be considered. The CRC will need to provide further direction to staff as to the purpose and objectives of that entity.

Limitations on Campaign Contributions

A memorandum from the County Attorney on the ability of charters to place additional limitations on campaign contributions is included in your packet under separate cover.

The provisions of the Sarasota County charter (a "cap" of \$200 per individual or committee) were upheld in an unwritten decision from the trial court that was not

Memorandum
January 25, 2010
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appealed. A subsequent case coming out of Sarasota on a similar subject that was appealed indicates that all areas of elections policy are pre-empted to the State, although that case is still in front of the Florida Supreme Court. In addition to the Sarasota County charter, the Alachua charter has policy in this area, although it has not been litigated.

Human Rights

You had identified human rights policy as an item for discussion. Relevant subsections of the Broward and Pinellas charters are attached for your review.

Advisory/Independent CRC

You debated the issue of whether the CRC should be independent or advisory in nature at your last meeting. Of the 20 county charters, 18 provide for a periodic review of the charter and/or county operations by a citizens committee. Of those, 15 are independent – their recommendations may be placed directly on the ballot for the consideration of the voters without the approval of the county commission.

Two (Leon and Osceola) are advisory. Their recommendations go to the county commission, who may accept or reject the proposed amendments.

One (Lee County) is a “hybrid” approach. The Lee CRC has 15 members. If a proposed amendment is adopted by an affirmative vote of at least nine members of the CRC, it is transmitted to the county commission who may then accept or reject the amendment for placement on the ballot. However, if a proposed amendment is adopted by an affirmative vote of at least 12 members, it is placed directly on the ballot for the consideration of the electorate.

Please feel free to contact me if you have any questions.

Attachment

Broward County Charter

Section 1.04 Citizen's Bill of Rights

N. Protection of Human Rights - The County shall establish provisions, for protection of citizen human rights from discrimination based upon religion, political affiliation, race, color, age, gender, disability, familial status, marital status, or national origin by providing and ensuring equal rights and opportunities for all citizens of the County.

Pinellas Charter

Sec. 2.02. Security of rights of citizens.

(e) *Protection of human rights.* The county shall establish provisions, pursuant to state and federal law, for protection of human rights from discrimination based upon religion, political affiliation, race, color, age, sex, or national origin by providing and ensuring equal rights and opportunities for all people of Pinellas County.

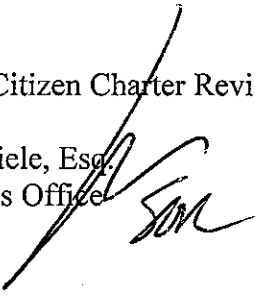
Leon County Attorney's Office

**January 25, 2010 Memorandum on Campaign Finance
Reform**

BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

To: Members of the Citizen Charter Review Committee

From: Herbert W.A. Thiele, Esq.
County Attorney's Office 

Date: January 25, 2010

Subject: Campaign Finance Reform / State Election Code Preemption

This memorandum is an update to the previous memorandum to the Citizen Charter Review Committee dated November 30, 2009, regarding the State's implied preemption of regulations concerning local campaign finance reform. The memorandum is being updated in light of the recent decision by the United States Supreme Court in the case styled *Citizens United v. Federal Election Commission*, ___ S. Ct. ___, 2010 WL 183856 (January 21, 2010).

Article VI, Section 1 of the Florida Constitution, which is entitled "Regulation of elections," provides that "Registration and elections shall... be regulated by law." This law is set forth by the Florida Legislature in Chapters 97 through 106, Florida Statutes, and is known as "The Florida Election Code." Section 97.011, Florida Statutes (2009). The intent of the Election Code is to "[o]btain and maintain uniformity in the interpretation and implementation of the election laws." Section 97.012(1), Florida Statutes (2009).

Chapter 106 of the Election Code is entitled "Campaign Financing," and Section 106.08 of same sets forth a limit on the dollar amount of contributions allowable in a campaign for elected office. For example, Section 106.08(1)(a), Florida Statutes, provides that:

Except for political parties, no person, political committee, or committee of continuous existence may, in any election, make contributions in excess of \$500 to any candidate for election to or retention in office or to any political committee supporting or opposing one or more candidates.

Pursuant to Article VIII, Section 1(g), Florida Constitution, "Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors."

The issue of setting limits to political contributions has been addressed by the United States Supreme Court. For example, in the case of Buckley v. Valeo, 424 U.S. 1, 96 S.Ct. 612 (1976), the U.S. Supreme Court held that provisions of the Federal Election Campaign Act of 1971, as amended, which limited political contributions to candidates for federal elective office, were constitutional despite First Amendment objections. The Court wrote that contribution limits were permissible as long as the state demonstrated a "sufficiently important interest," such

as preventing corruption and the appearance of corruption, and employed a “means closely drawn to avoid unnecessary abridgment of associational freedoms.” 424 U.S. at 25. Several years later, in the case of Nixon v. Shrink Missouri Government PAC, 528 U.S. 377, 120 S.Ct. 897 (2000), the U.S. Supreme Court found that its decision in Buckley v. Valeo was also the authority for a state to set limits on campaign contributions. Since Buckley, the U.S. Supreme Court has consistently upheld contribution limits in other state statutes. Randall v. Sorrell, 548 U.S. 230, 247, 126 S.Ct. 2479 (2006).

However, in the case of Randall v. Sorrell, 548 U.S. 230, 126 S.Ct. 2479 (2006), the U.S. Supreme Court found that a Vermont statute set campaign contribution limits “too low,” and thus violated the First Amendment’s free speech protections. Specifically, the Vermont statute limited the amount an individual, political party, and political committee could contribute to a campaign for governor at \$400, state senator at \$300, and state representative at \$200, per election cycle. These limits were “substantially lower” than the limits previously upheld by the Supreme Court and comparable limits in other states. 548 U.S. at 253. The Court noted that “we must recognize the existence of some lower bound” and that “contribution limits that are too low can also harm the electoral process by preventing challengers from mounting effective campaigns against incumbent officeholders, thereby reducing democratic accountability.” 548 U.S. at 248-249.

An important decision concerning corporate expenditures on “electioneering communications” was recently rendered by the United States Supreme Court in the case styled Citizens United v. Federal Election Commission, ___ S. Ct. ___, 2010 WL 183856 (January 21, 2010). In this case, the U.S. Supreme Court held that 2 U.S.C. § 441b, which barred corporate independent expenditures on broadcast, cable or satellite communications that referred to a clearly identified candidate for federal office, violated the First Amendment and was thus invalid. The Court found that “the Government may not suppress political speech based on the speaker’s corporate identity.” Citizens United at 8.

As to the issue of state preemption in the field, there is a recent court case in Florida that addresses the preemption of the Election Code over local government regulations. In Browning v. Sarasota Alliance for Fair Elections, Inc., 968 So. 2d 637 (Fla. 2d DCA 2007), the Second District Court of Appeal reversed the holding of the trial court and found that proposed amendments to Sarasota County’s charter were impliedly preempted by the Election Code. The charter amendments, which were proposed by a political action committee, required paper ballots, mandatory audits of the voting system, and certification of elections after the mandatory audit was completed. The Court explained that preemption is implied “when the ‘legislative scheme is so pervasive as to evidence an intent to preempt the particular area, and where strong public policy reasons exist for finding such an area to be preempted by the Legislature.’” 968 So. 2d at 645. (Citations omitted.)

In determining whether or not the Election Code preempted the proposed Sarasota County charter amendments, the Second District Court of Appeal noted that the Election Code’s

ten chapters of regulations established a “detailed and comprehensive statutory scheme for the regulation of elections in Florida, thereby evidencing the legislature’s intent to preempt the field of elections law, except in those limited circumstances where the legislature has granted specific authority to local governments.” 968 So. 2d at 646. The Court goes on to state, “[t]his pervasive state control of the election process is a compelling indicator that the legislature did not intend for local governments to enact their own individual election laws,” and the “legislature has enacted the Election Code with such detailed depth and breadth that its intent to occupy the entire field is forcefully implied.” 968 So. 2d at 647. One of the cases that is cited by the Court is a Maryland case styled County Council for Montgomery County v. Montgomery Association, Inc., 333 A.2d 596 (Md. 1975), which held that the state’s election code completely occupied the field of regulation of campaign finances, to the exclusion of any local legislation on the subject. Therefore, Montgomery County’s limits on campaign contributions were found to be invalid. The Second District Court of Appeal also certified a question to the Florida Supreme Court on the matter of the state’s preemption in the field of elections law, but there has been no further activity in the case.

In addition, Florida Attorney General Opinion 074-263, rendered in 1974, determined that Chapter 106, Florida Statutes applied to candidates for elective municipal office and that the regulation of campaign contributions was preempted to the state.

It has been pointed out that there are local regulations in Florida that provide for campaign finance reforms, including campaign contribution limits. For example, the Alachua County Charter provides for a \$250 limit on campaign contributions. However, it should be noted that the Alachua County regulations were authorized by a special law enacted by the Florida Legislature and were approved by a majority vote of the electors in a general election held November 2, 2004. As these regulations were enacted pursuant to special law of the Florida Legislature, these regulations are not preempted by the Election Code.

In addition, Sarasota County’s charter sets campaign contribution limits of \$200.00 per contributor. In 1999, the campaign contribution limits and other related issues were the subject of a lawsuit in the Twelfth Judicial Circuit styled Ciaravella v. Board of County Commissioners of Sarasota County, Florida, Case No. 99-4201-CA, in which the Circuit Judge for the Twelfth Circuit held that the campaign contribution limits were constitutional and enforceable. This holding was not appealed. However, a holding in the Twelfth Judicial Circuit would not be binding or authoritative in the Second Judicial Circuit in and for Leon County. Furthermore, in light of the Second District Court of Appeal’s more recent holding in Browning v. Sarasota Alliance for Fair Elections, Inc., 968 So. 2d 637 (Fla. 2d DCA 2007), which found that the Election Code did impliedly preempt local regulations in the field of elections, Sarasota County’s campaign contribution limits would also likely be found impliedly preempted by the State.

In conclusion, pursuant to the detailed, comprehensive and pervasive regulations set forth in the ten chapters of Florida law constituting the Florida Election Code, including Chapter 106

on campaign financing, it is the opinion of the County Attorney's Office that campaign contribution limits are impliedly preempted by the State of Florida.

HWAT/PTK/plp

IX.

NEW BUSINESS

IX. (1): Decision Agenda

- a. Functional Consolidation of Growth Management**
- b. Tourist Development Council Structure**
- c. Audit Clarification**
- d. Petition Threshold**

Leon County Citizen Charter Review Committee

DECISION AGENDA

a. Functional Consolidation

CITIZEN CHARTER REVIEW COMMITTEE

MEMORANDUM

DATE: January 25, 2010

TO: Citizen Charter Review Committee

FROM: Parwez Alam, County Administrator
Vincent S. Long, Deputy County Administrator
Shington Lamy, Special Projects Coordinator

SUBJECT: Leon County's Effort of Functional Consolidation of Growth Management

Staff has attached two documents that highlight Leon County's effort to consolidate the growth management departments of the County and City of Tallahassee. The first material is a budget discussion item presented to the Leon County Board of County Commissioners on June 9, 2009, which provides historical detail of past efforts and issues of the consolidation of County and City Growth Management and Building Inspection (Attachment #1).

The second document is a Memorandum of Understanding (MOU) between the County and City, which was approved by the Board of County Commissioners on July 14, 2009, to pursue the consolidation of County and City growth management functions and building inspection (Attachment #2). The MOU outlines the approach to accomplish consolidation, and provides an estimated timeline.

It is important to note, that the MOU endorses the establishment of a formal schedule for functional consolidation of Growth and Environmental Management and Building Inspection no later than October 1, 2010, as recommended by the City's Charter Review Committee. County staff will provide a brief update on the progress of functional consolidation of Growth Management and Building Inspection during the Committee's January 28, 2010 meeting.

CC: Herb Thiele, County Attorney
Kurt Spitzer, Kurt Spitzer and Associates

Attachment #1: June 9, 2009 Budget Discussion Item on County-City Growth & Environmental Management/Building Inspection Consolidation

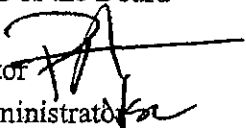

Attachment #2: Memorandum of Understanding regarding the functional consolidation of County and City Growth & Environmental Management/Building Inspection.

Board of County Commissioners Budget Discussion Item

Date of Meeting: June 9, 2009

Date Submitted: June 2, 2009

To: Honorable Chairman and Members of the Board

From: Parwez Alam, County Administrator 
Vincent Long, Deputy County Administrator 

Subject: County - City Growth & Environmental Management / Building Inspection Consolidation

Statement of Issue:

This agenda item presents issues (including past efforts) regarding the functional consolidation of County - City Growth & Environmental Management / Building Inspection, offers recommended options and seeks Board direction for advancing this initiative.

Background:

Under the "Discussion Items by Commissioners" section of the April 21, 2009 County Commission meeting, Commissioner Desloge raised the issue of the recent City of Tallahassee Charter Review Committee's recommendation to the City Commission regarding the consolidation of County - City Growth Management functions. At that time, the Board directed staff to prepare an agenda item on the issue and to request the County's Citizen Charter Review Committee to take the City Charter Review Committee's recommendation under advisement when they convene in November.

Analysis:

This agenda item presents issues which may be beneficial in determining the manner in which the Board wishes to proceed in support of the prospect of consolidating growth management and building inspection functions performed by Leon County and the City of Tallahassee. This analysis includes an overview of the significant previous efforts taken to date to advance a functional consolidation of these services. Given the limited success of previous efforts, it is recommended that the Board consider the historical approach to this issue, as well as approaches not utilized which may be more expeditious and effective.

This agenda item also presents options available to the County for effectuating such a consolidation, including addressing recent discussion by the Board regarding the opportunities and limitations of amending the County or City charters to realize a functional consolidation. Finally, with respect to the overall potential benefit of consolidating these services, this agenda item presents a high level of analysis recognizing that a more in-depth study of all of these issues would be needed if the County and City Commissions committed to pursuing a functionally consolidated model for the provision of

Agenda Request: County - City Growth & Environmental Management / Building Inspection Consolidation

Date:

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these services countywide.

PREVIOUS EFFORTS

Over at least the past twenty years, the issue of consolidating the County and City growth management functions has been raised by individual County or City Commissioners, by citizens representing the development community, or by groups like the Chamber of Commerce. Over this time, the Board of County Commissioners has traditionally taken a very supportive position toward the prospect of the functional consolidation of growth management and has identified this issue as a perennial priority issue during the annual retreat priority-setting process. Past commissions have taken a very active interest in advancing the functional consolidation of growth management. Many of those efforts involved designating individual commissioners from the County and the City "to go make it happen". This approach instructs that it is probably not the most effective means to achieve functional consolidation. Alternatives to this approach are presented herein. It is also noted that while a true functional consolidation of growth management has not been realized, very significant "incremental" advances have been made in the area of coordination, consistency, and the use of common technology by the independent departments. This section provides an overview of the historical and political context of the Board's previous efforts over the past twenty-plus years.

Prior to 1990, growth management was much simpler. The County and the City had separate building inspection departments, but the environmental management function of growth management was performed by the County on a countywide basis. In 1990, the City established their own environmental and concurrency management divisions. The County actively opposed this action and continued to advocate for the environmental management function to be performed by one department to be guided by and to enforce countywide regulations based on environmental conditions, rather than political boundaries. The Comprehensive Plan was adopted later that same year by the County and the City and included Objective 1.4 of the Conservation Element which supported the policy of one environmental management department. This objective, which remains in the Comprehensive Plan today, reads as follows (Attachment#1):

Objective 1.4: [C] (Effective 12/10/91)

By 1993, local government will establish a unified single agency focused on environmental and natural resource protection and management that will help conserve, protect, and enhance the natural resources in Tallahassee and Leon County.

One of the earliest efforts to realize functional consolidation of growth management can be traced to early 1992. On April 8, 1992, County Commissioners Marjorie Turnbull and Gary Yordon appeared before the City Commission to express the County Commission's commitment to consolidating the

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larger growth management function and presented a discussion paper that the Board had previously directed staff to prepare on the subject (Attachment #2). The City Commission agreed at that time to begin the process to consolidate the two departments. In discussions between the County and City Commissions, and at Mayor/Chair meetings leading up to and preceeding this action, important reasons for pursuing a consolidation of growth management were espoused, many of which included the reasons captured in a letter from Commissioner Steve Meisburg to the City Commission which included:

"First, the City and County are facing very difficult budget pictures – we need to eliminate overlapping functions wherever possible; second in this time of recession, I believe we have only added more confusion and uncertainty in our building and banking community; and finally, I believe we must work to develop a system that while effectively protecting the environment, works in partnership with the public."

On April 21, 1992, the County Commission voted unanimously to establish a citizen committee to convene for the purpose of developing recommendations on a growth management consolidation plan. On April 22, 1992, the City Commission unanimously approved the same action. On June 16, 1992, the Board of County Commissioners voted unanimously to accept a consolidation committee comprised of a representative of CONA, the Coalition for Positive Growth Management, a Planning Commissioner, the County Administrator and the City Manager. The City never took action to establish the committee.

Absent a committee, the County Administrator tried to keep this initiative moving forward at the staff level. On March 11, 1993, County Administrator Pawez Alam sent a memorandum and a proposed Interlocal Agreement to then City Manager Dan Kleman which stated, in part, *"As you will recall, the City and County Commissions directed you and me to develop a proposal on the subject issue (Joint Growth and Environmental Department). For one reason or another, we have not been able to accomplish the direction of the Commissions, even though we discussed the issue at two meetings. In an effort to move this assignment along, I have taken the liberty of drafting the attached proposal for your consideration."* (Attachment #3). The proposed interlocal agreement attempted to reach final mutual commitment for advancing the growth management consolidation by establishing the broad parameters whereby:

"The County Administrator and the City Manager shall lead a transition team to combine the existing growth management departments with the new department becoming operational within 60 days of the execution of this agreement or October 1, 1993..."

Then City Manager Dan Kleman was unresponsive to the letter, but made it known privately to the County Administrator and individual County and City Commissioners at the time that he did not

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believe that a consolidated growth management was in the best interest of the City.

In 1994 another consolidation effort evolved. This effort focused on consolidating County and City Building Inspection and Permitting Divisions and was led by County Commissioner Bruce Host and City Commissioner Scott Maddox. A joint letter from the commissioners was issued on September 22, 1994 which requested a joint County-City staff report within thirty days of the "benefits and pitfalls" of such a consolidation (Attachment #4). The commissioners also sent letters under their signatures to the Tallahassee Builders Association, the North Florida Chapter of Associated Builders and Contractors, and the Coalition for Positive Growth Management soliciting their suggestions, comments and ideas about a consolidated building inspection division.

On October 24, and October 31, 1994, the City and County Growth Management Directors respectively submitted their reports (Attachments #5 & #6). In the months that followed, County and City staff worked with the designated commissioners to reconcile and refine their reports and take into consideration the comments received from the development community. On April 18, 1995, the County Commission received an agenda item titled Joint Building Inspection Divisions Review and Committee Report (Attachment #7). This agenda item concluded that it was not advisable to combine County and City Building Inspection and Permitting Divisions due to decreased efficiency that would result from separating the divisions from the respective Growth Management Departments. There were also concerns at the time about increased costs associated with this consolidation due to the need for a common facility and compensation equalization. The most important issue, however, was probably the concern that this separation from other growth management functions was a move away from "one-stop permitting". The County Commission unanimously approved the recommendation not to consider combining the County and City Building Inspection and Permitting Divisions separate from their respective Growth Management Departments. Similar action was subsequently taken by the City Commission.

Throughout the remainder of the 1990s, the issue of growth management consolidation would surface from time to time, including at Mayor – Chair meetings. In more recent years, the Board of County Commissioners has consistently expressed an interest in advancing some of the broader issues associated with growth management consistency and countywide environmental management by establishing countywide environmental standards. In fact, in every year since 2000, the Board has elevated pursuing countywide stormwater regulations as a Board Retreat priority. Specifically, in 2003 and 2006 this issue was identified for a charter amendment (Attachment #8). As a result, in 2006 the County and City developed the Watershed Management Policy Board; however, this effort has not been successful in establishing uniform policy in this area.

In 2008, the issue of exploring all opportunities for functional consolidation, including growth management consolidation, was raised as the Board of County Commissioners discussed the impacts of Amendment #1 to the Florida Constitution. At that time, the Board appointed Commissioner John

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Dailey to work with Superintendent Jackie Pons and Mayor John Marks to identify opportunities for functional consolidation. No recommendations were made as a result of this effort.

As previously mentioned, the impetus for this agenda item was the County Commission's action at the April 21, 2009 County Commission meeting to support the City's Charter Review Committee (CRC) recommendations regarding the consolidation of County-City Growth Management functions included in their draft report to the City Commission. On April 22, 2009, the City's CRC presented its final report to the City Commission (Attachment #9). As part of its report, the CRC recommended that the City establish a formal schedule to consolidate the Growth Management departments of the County and City no later than October 1, 2010.

In the very latest development on this issue, on May 13, 2009 the City Commission designated City Commissioner Debbie Lightsey to work with the County Commission on consolidating the City and County Building Inspection and Permitting Departments (Attachment #10). This motion was not in response to attempting to consolidate growth management functions, but rather to address the City Building Inspection Fund's (\$824,000) projected deficit. Specifically, the City's stated intent of the motion was to "graduate the fee structure to bring it closer to the County's to generate some surplus." The County's Building Inspection Department is a self-sustaining operation.

WHERE WE ARE TODAY

As previously noted, even though previous efforts to effectuate the consolidation of County-City growth management functions have not been realized, it is important to appreciate the "incremental" advances that have been made in the area of coordination, consistency, and the use of common technology by the independent departments. To date, the County, in conjunction with the City of Tallahassee, has undertaken actions that have provided the public an apparently seamless and transparent interface for many of the customer services provided pursuant to the community's growth management related responsibilities. The County and City Growth Management Departments have utilized the Permit Enforcement and Tracking System (PETS) software since 1995. In 1998, both departments migrated to a web-based version of the software known as PETS Plus. Since 2002, both departments have utilized the software to populate Velocity Hall, which provides the public internet access to the status of all pending development review and permitting activity, as well as a historical record of such activity for all parcels in both jurisdictions.

Through joint funding efforts, both jurisdictions have supported the development and implementation of a countywide Geographic Information System (GIS). This combined effort has allowed for the subsequent development of the Land Identification layer which allows the public, via internet, access to GIS to view proposed development projects and site-specific environmental and land use related information regardless of the jurisdictional location of the property. Furthermore, GIS is extensively utilized to implement the countywide addressing and street naming ordinance,

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which is administered by the inter-jurisdictional Addressing Steering Committee.

In 2003, both departments implemented an interactive voice-activated response system (IVRS) to assist with building inspections. The IVRS provides one telephone number that accesses a 24-hour, seven (7) days a week, automated building inspection requests system that is utilized by both departments. Additionally, both departments' building inspection divisions have established a standing Code Consistency Committee to ensure consistent interpretation and enforcement of the Florida Building Code between jurisdictions and to participate regularly in joint public service announcements concerning building review and inspection-related matters.

Other coordinated and/or joint growth management related activities include the Board of Adjustment and Appeals, which is composed of members appointed by both governments. Both Departments utilize the same traffic model for concurrency management purposes, coordinate inter-jurisdictional traffic impact analysis, and implemented a memorandum of agreement with regards to proportionate share traffic impact mitigation.

In 2005, the County and Commissions approved the purchase and build-out of the Renaissance Center Building the purposes of realizing a true "one-stop shop" for all growth management related services. In the months that followed, the County's Growth and Environmental Management Department relocated from Tharpe Street to the second floor of the Renaissance Center. The City's Growth Management Department was soon after relocated from City Hall to the first and third floors.

The joint City/County Planning Department was also relocated to the Renaissance Center to complete this very rare, full-service, "one-stop" location for all growth management related activities, regardless of jurisdiction.

Apart from the activities that have been outlined above that anning Departhave facilitated the integration of various growth management functions and provided the public with a unified customer service delivery system, several outstanding or unresolved policy related issues remain that would need to be addressed in order for complete functional consolidation of growth management to occur. These issues can generally be divided into the category of regulatory and funding differences.

Many of the current inter-jurisdictional regulatory differences between the County and the City have been established in the Comprehensive Plan and are carried out through implementing land development regulations. Examples include differences in the regulatory framework (allowable uses and applicable stormwater standards) applicable to the Lake Protection future land use district, differences in stormwater management standards and applicable regulations including floodplain management and a difference in the overall philosophical approach to growth management as reflected in each jurisdictions' land development regulations based on the nature of the geographical area (urban, suburban, rural, rural community) being regulated, and so forth.

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With regards to funding for the County and City growth management functions, each local government has historically taken a different approach to this issue. While the County has elected to generally fund their mandated growth management functions through an enterprise fund approach (especially the building review and inspections functions), the City has typically utilized more non-fee based revenues to fund their growth management functions. The different funding approaches has resulted in substantial variations in development and permitting review fees between the jurisdictions. While the Comprehensive Plan notes that new development should pay for itself and not be subsidized by local government, neither jurisdiction is currently implementing this policy fully; however, the County's current funding methodology on its face would appear to be more in line with the established goal.

Conclusion: WHERE DO WE GO FROM HERE?

As previously stated, the impetus of this agenda item came at the Commission Meeting of April 21, 2009. At that time, the Board directed staff to prepare an agenda item to consider how the Board may wish to support the City's CRC recommendations to consolidate County-City growth management functions. As described in this agenda item, it is instructive to both carefully consider the difficulties of our past attempts to realize functional consolidation of County-City growth management, as well as appreciate the significant progress that has occurred to bring the independent departments to where they are today (as described above). When determining where to go from here, several important questions emerge which the Board may wish to consider in determining the manner, the extent and desired outcome of supporting (or leading) an initiative to functionally consolidate County-City growth management:

What additional information is needed to advance this effort?

Prior to the Board determining a position or a course of action, the Board may wish to have a further evaluation of the marginal benefits of a functional consolidation of growth management (over what exists today) and the options available to realize the maximum potential benefits, to achieve the most cost effective result and to avoid any unintended consequences.

Only by performing such an evaluation will the Board have the information necessary to determine their desired outcome and how to get there. For example, the 1995 effort to consolidate only the County-City Building Inspection took a considerable amount of time and effort only to determine at the end of this process that the benefits of a consolidated building department were outweighed compared to the efficiencies lost in separating building inspection from the other growth management functions and the parting from the overall objective of "one-stop permitting". As mentioned previously, this is the same approach which the City Commission recently designated Commissioner Lightsey to engage the County Commission to pursue once again.

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It is strongly recommended that any evaluation of the functional consolidation of growth management incorporate County and City Building Inspection and Joint City-County Planning.

What are the options for obtaining the above-mentioned analysis and receiving timely and actionable recommendations?

There are two basic approaches whereby the Commissions could get the information necessary to guide critical decisions associated with an effort as involved as the functional consolidation of growth management. 1). One option is to hire an independent management and operational consultant to perform this work. 2). The other option, is to assemble a group of key staff from the County and the City to perform this evaluation.

1). The Consultant Option/Approach: The nature of the evaluation and the level analysis needed to make recommendations on the issues of management/process efficiency and cost effectiveness associated with a functional consolidation justifies the use of a professional management and operations consultant. The independent, objective nature an outside consultant is an additional advantage of this approach. The selection and scope of work of the consultant should be mutually agreed upon and cost shared by both the County and City Commissions. In this approach, both Commissions should direct that their highest level staff support the work of the consultant. In addition, the consultant should be charged with engaging frequent customers of the services to solicit their input. The consultant's work should be delivered to the County and the City at a joint public workshop at which time the Commissions can evaluate the options to achieve all available benefits of a consolidation, determine / ensure consistency with overall objectives, and to decide on the most appropriate action (which could include transition and implementation planning).

2). The Team Option/Approach: While the nature of the evaluation and the level of analysis justifies the use of a consultant, this approach is not required to obtain the information necessary to guide critical decisions associated with this effort. In fact, in this case another viable option to achieve the result described above is recommended. This "Team Option/Approach" involves assembling a group of key staff from the County and the City to perform this evaluation. Specifically, it is recommended that this group consist of the Deputy County Administrator (Vincent Long), the Assistant City Manager for Development and Transportation Services (Tom Coe), the Assistant County Administrator (Alan Rosenzweig), the City's Director of Management and Administration Services (Raoul Lavin), the Director of County Growth & Environmental Management (David McDevitt), the Director of City Growth Management (Bob Herman), and the Joint City/County Planning Director (Wayne Tedder). This group of employees is capable of performing such an analysis and could effectively marshal the resources of the two governments to achieve the objectives. An additional advantage of this approach is the time saved in the process of selecting a consultant. Because of the level of effort that would be required with this approach, however, it should be expected that this process would become the top priority of the group members and would consume much of their time and attention. If given top priority, this evaluation could be

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completed in as fast as 30 days. It is also recommended that this group include the Chairman of the Greater Tallahassee Chamber of Commerce Growth Management Committee (Todd Sperry). This individual was instrumental in the recent recommendations made to the City CRC and is a development professional who has been a customer of both the County's and the City's growth management departments on small and large-scale projects

What about the political commitment necessary to keep this effort advancing?

The mutual political commitment by the County and City Commissions necessary to achieve functional consolidation of growth management cannot be overstated. The practice of the Commissions appointing individual Commissioners to establish the political commitment for resolving inter-jurisdictional issues has been one which has become a common practice for the City and the County. This practice is most effective when there are significant unresolved issues which require a negotiation (or re-negotiation) to lay the foundation upon which staff can then "work out the details". However, when Commissioners are appointed to "work out the details", this practice becomes inherently problematic and the objective very elusive.

As has been described here, very capable and well-intentioned Commissioners have been appointed by their respective Commissions in the past and dispatched down a well-traveled road to effectuate the consolidation of growth management. This approach presumably is to maintain the political commitment to achieving the goal. However, rather than maintaining the strong, concentrated political commitment of a majority of the Commissions, over this period of time the political commitment becomes fragmented and diffused. The political responsibility becomes that of the individual designated Commissioners. Among the inherent problems with this approach arise the fact that the individual Commissioners are privy to information that the rest of the Commissions do not enjoy. In addition, this designated Commissioner process is more susceptible to external influences which arise and may be counter to achieving the policy goal than is the process whereby professional staff carries out the direction of the Commission. Because of these and other factors, policy decisions and directions are sometimes changed in this process. In the end, often times the designated Commissioners have devoted a considerable amount of time (probably an unreasonable amount of time to be expected) only to have the process become derailed completely or the deliverable ultimately not approved by the respective Commissions.

There are many examples of this occurring in the past. One such example involved an effort in which County Commissioner Bruce Host and City Commissioner John Paul Bailey were designated by their Commissions to work on consolidating law enforcement dispatch. After approximately 18 months of intense effort, Commissioner John Paul Bailey wrote in a letter ending the process stating: "At present, it seems to be imprudent to continue to pursuing a Joint Dispatch/Emergency Management Center between the City and County due to a lack of interest and support." (Attachment #11).

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In the current ongoing effort to achieve joint dispatch, the County and the City Commissions executed a Memorandum of Understanding (MOU) on the outset which clearly stated the policy objective. The Commissions jointly committed significant funding to this effort and endorsed the establishment of the Public Safety Communications Board (made up of their professional staff) to carry out the policy objective. Though very complex and involved, this approach will successfully achieve the policy objective in the very near future.

In this case, it is recommended that the County Commission direct staff to develop a MOU outlining the broad tenets and the mutual commitment for pursuing a functional consolidation of County and City growth management functions, upon passage of which will be sent to the City Commission for consideration. This MOU should include utilizing the Team Option/Approach and incorporate the County and City Building Inspection and Joint City-County Planning in the evaluation, as described earlier.

How to effectuate functional consolidation of growth management technically?

Once the objectives are clearly defined by the evaluation and decided upon by the Commissions, the Commissions can direct the manner in which they choose functional consolidation be effectuated.

There has been considerable discussion regarding functional consolidation in the context of the City's recent charter review and the County's upcoming charter review. To provide clarification, the City's CRC Final Report and Recommendations (Attachment #9) included a number of non-charter recommendations for the City Commission's consideration to effectuate through ordinance, policy, or interlocal agreement. This was the manner in which the CRC addressed functional consolidation. This reflects the understanding that a City charter amendment can do very little to effectuate functional consolidation. As previously stated, as part of its report, the Committee recommended that the City establish a formal schedule to consolidate the growth management departments of the County and City, no later than October 1, 2010.

The County's charter review process should be viewed differently. The County charter could only effectuate a functional consolidation through its "Transfer of Powers" provision which would require the consent of the City to simply turn those responsibilities over to the County. This would also require an affirmative vote of the local electorate in a dual referendum (must pass in both the city-limits and the unincorporated area). However, there are some important policy related issues which could be effectuated through a revision to the County's charter to establish countywide regulations. As previously mentioned, the Board has placed significant priority in establishing countywide environmental ordinances in the past. It is an important, but often overlooked fact; in all of the deliberations regarding functional consolidation that County and City services are most often not duplicated. Duplication resides most often at the policy level creating different regulatory standards based on jurisdictional boundaries, and thus, creating the need to have different regulatory functions provided by the jurisdictions.

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The Florida Constitution provides that a county charter shall provide for that which shall prevail in the event of conflict between county and municipal ordinances. Thus, charter counties have a direct constitutional grant of broad powers of self-government, which include the power of county-citizens to enable their county to enact regulations of countywide effect which preempt conflicting municipal ordinances. Like charter counties, municipalities are granted broad home-rule powers by the Constitution. For municipalities in charter counties, however, these powers are limited by the constitutional right of citizens to opt for county preemption of municipal regulatory power [Article VIII, s. 1(g), Fla. Const.; *Broward County v. City of Ft. Lauderdale*, 480 So.2d 631(Fla.1985)]. In this regard, the County could effectuate much of the benefit of a functional consolidation through charter amendment and at the same time eliminate the need to have multiple jurisdictions enforcing different regulations by a simple countywide affirmative vote of the local electorate.

Notwithstanding the above information, the most likely vehicle to effectuate a functional consolidation would be through the execution of an Interlocal Agreement. This Interlocal Agreement could reflect the broad tenets established in a Memorandum of Understanding (MOU). This MOU would also establish a timeline including an evaluation, as described earlier, to be delivered to the Commissions to provide guidance necessary to inform their decisions and reach consensus. At such time, the Commissions could jointly provide direction on the specific provisions to include in the Interlocal Agreement.

Options:

1. Direct to prepare an agenda item for Board approval of a Memorandum of Understanding (MOU) outlining the broad tenets and the mutual commitment for pursuing a functional consolidation of County and City growth management functions upon passage of which will be sent to the City Commission for consideration. Include in this MOU utilizing the Team Option/Approach to conduct the evaluation to realize the maximum potential benefits, to achieve the most cost effective result, to avoid any unintended consequences and to ensure consistency with broader objectives, and to incorporate the County and City Building Inspection and Joint City-County Planning in the evaluation.
2. Same as Option 1, except direct staff to utilize the Consultant Option/Approach for conducting the evaluation.
3. Designate a County Commissioner to work with Commissioner Lightsey to consolidate the Building Inspection function.
4. Board Direction.

Recommendation:

Option #1

Attachments:

- #1 - Comprehensive Plan Objective 1.4 of the Conservation Element
- #2 - Discussion Paper on Consolidating City and County Growth Management
- #3 - Proposed Interlocal Agreement memorandum to then City Manager Dan Kleman by County Administrator Parwez Alam
- #4 - September 22, 1994 joint letter from Commissioners to County Administrator Parwez Alam re: "benefits and pitfalls" of consolidation
- #5 - October 24, 1994 City and County Building Inspection Consolidation report sent on behalf of Henry L. Holshouser, Jr.
- #6 - October 31, 1994 Report on Consolidation Building Inspection and Permitting Divisions sent on behalf of Howard Pardue
- #7 - Agenda Item dated April 18, 1995 re: Joint Building Inspection Divisions Review Committee Report
- #8 - 2003 and 2006 Board Retreat priorities
- #9 - City's Charter Review Committee (CRC) final report
- #10 - Designation of Commissioner Debbie Lightsey to work with the County Commission on consolidation of County and City Building Inspection Departments
- #11 - September 14, 2009 John Paul Bailey letter

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (MOU), is made and entered into this ____ day of _____, 2009, by and between LEON COUNTY, a political subdivision of the State of Florida (hereinafter referred to as "County"), and the CITY OF TALLAHASSEE, a Florida municipal corporation (hereinafter referred to as "City").

WHEREAS, the County and the City wish to enter into a Memorandum of Understanding that will ensure the creation of a single, functionally consolidated growth and environmental management and building inspection entity; and,

WHEREAS, the County and the City currently operate separate and independent growth and environmental management and building inspection departments based on political jurisdiction; and,

WHEREAS, the City of Tallahassee is the only municipality within the Leon County; and,

WHEREAS, the County and the City agree that land use regulations should be based on best practices for sustainable growth management on a countywide basis (discouraging sprawl, encouraging infill, preserving neighborhoods and promoting the long-term economic and environmental health of our community), not based on political boundaries; and,

WHEREAS, the County and the City agree that environmental regulations should be based on best practices for sustainable growth management on a countywide basis (protecting, conserving and enhancing natural resources based on science and promoting the long-term economic and environmental health of our community), not political boundaries; and,

WHEREAS, Objective 1.4 of the Conservation Element of the Comprehensive Plan states: *By 1993, local government will establish a unified single agency focused on environmental and natural resource protection and management that will help conserve, protect, and enhance the natural resources in Tallahassee and Leon County;* and,

WHEREAS, the County and City acknowledge that while the respective governments each perform a separate building inspection function, both are administering the same statewide building code; and,

WHEREAS, although previous efforts to effectuate the functional consolidation of County-City growth management functions have not been realized, it is important to recognize the significant advances that have been made in the area of coordination, consistency, and the use of common technology by the independent departments; and,

WHEREAS, the County and the City are committed to improving upon these advances and achieving a true "one-stop" permitting function while promoting the highest quality development and protecting the highest environmental standards; and,

WHEREAS, the County and City area committed to exploring functional consolidation whenever appropriate.

NOW, THEREFORE, in consideration of the following mutual promises, covenants, and representation set forth herein, the sufficiency of which is hereby acknowledged, the County and the City, hereby agree as follows:

I. Purpose: The purposes of this MOU are:

- To establish a clear mutual understanding of, and a shared commitment to, the policy objective of the Board of County Commissioners and the City Commission.
- To establish a team approach to perform the analysis required to provide guidance necessary to inform the Board of County Commission and the City Commission.
- To establish a general timeline for the work process and implementation schedule for the functional consolidation of County and City Growth and Environmental Management and Building Inspection Departments.

II. Policy Objective. It is the policy objective of the County and the City Commissions to create of a single, functionally consolidated growth and environmental management and building inspection entity.

III. Team Approach.

- a. To ensure a collaborative process, to foster buy-in, to maximize the full resources of the respective organizations, and to accelerate the timeline, a team approach will be employed to facilitate this process.
- b. The County Administrator and the City Manager will appoint the staff members on the team, oversee the work of the team, will elevate this project to the top priority of the respective staffs and will provide this team the necessary resources of the respective organizations to accomplish the task.
- c. In addition, the team will include the Chairperson of the Greater Tallahassee Chamber of Commerce Growth Management Committee.

- d. It is anticipated that the team will meet often, at least weekly, to satisfy an accelerated timeline.
- e. The tasks of the team will include:
 - i. To perform an analysis of the benefits of a functional consolidation of growth and environmental management and building inspection.
 - ii. To present options available to realize the maximum potential benefits (including, achieving the most cost effective result, avoiding unintended consequences / ensuring consistency with larger policy objectives).
 - iii. To develop a timeline and implementation schedule.
 - iv. To provide policy recommendations to the County Commission and City Commission to allow the respective legislative bodies to reach consensus on the specific provisions to include in the development of Interlocal Agreement.
- f. All costs incurred by the team shall be borne by the respective participating entities.

IV. Estimated Timeline.

- a. The team will convene upon execution of this MOU by the Board of County Commissioners and the City Commission.
- b. At their first meeting, the team will prepare a detailed and accelerated timeline to include identification of dates to provide analysis to and receive necessary policy direction from the County and City Commissions. The timeline will be presented to the County Administrator and the City Manager. The team will initiate their work plan at this time.
- c. The County Administrator and the City Manager will make any revisions they deem necessary and present a final timeline to the respective Commissions within 30 days.
- d. The final timeline will include the establishment of a formal schedule to consolidate the Growth and Environmental Management and Building Inspection departments of the County and City no later than October 1, 2010, as recommended by the City's Charter Review Committee on April 22, 2009.

V. Term. The Term of this Agreement shall commence on the date on which it has been executed by all parties, and shall automatically end on January 1,

2011. It is anticipated that this MOU will be replaced prior to this date by a formal Interlocal Agreement to effectuate the functional consolidation of County and City growth and environmental management and building inspection functions.

- VI. Subsequent Agreements. It is the intention of the County and the City to, upon completion of this initial development work, to prepare, approve and execute an Interlocal Agreement with a term of not less than ten years.

IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representative, have executed this Memorandum of Understanding as of the date first written above.

LEON COUNTY, FLORIDA

CITY OF TALLAHASSEE, FLORIDA

By: _____

By: _____

Bryan Desloge,
Chairman, Board of County Commissioners

JOHN R. MARKS, III,
Mayor of the City of Tallahassee

ATTESTED TO:

ATTESTED TO:

By: _____

By: _____

ROBERT B. INZER,
Clerk, Leon County, Florida

GARY HERNDON,
City of Tallahassee Treasurer – Clerk

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____

By: _____

HERBERT W.A. THIELE, Esq.
COUNTY ATTORNEY

JAMES R. ENGLISH, Esq.
CITY ATTORNEY

Leon County Citizen Charter Review Committee

DECISION AGENDA

b. Tourist Development Council Structure

Sec. 2.3. Executive Branch.

(1) The County Administrator.

(A) The County Administrator shall be appointed by, and serve at the pleasure of, the Board of County Commissioners. The County Administrator shall be the chief executive officer of the County and all executive responsibilities and powers shall be assigned to, and vested in, the County Administrator. The County Administrator shall exercise all executive authority provided by this Home Rule Charter and all other powers and duties authorized by general or special law.

(B) The County Administrator shall be chosen on the basis of his/her professional qualifications, administrative and executive experience, and ability to serve as the chief administrator of the County. The County Administrator shall reside within the County during his/her tenure as County Administrator.

(C) The compensation of the County Administrator shall be fixed by the Board of County Commissioners at a level commensurate with the responsibilities of the position, with performance appraisals conducted by the Board of County Commissioners at least annually.

(D) A vacancy in the office shall be filled in the same manner as the original appointment. The County Administrator may appoint an Acting County Administrator in the case of his/her temporary vacancy.

(2) Senior Management.

The County's senior management employees, with the exception of the County Attorney's and ~~Tourist Development Council (TDC)~~ staff, shall serve at the pleasure of the County Administrator, who may suspend or discharge senior management personnel with or without cause.

Leon County Citizen Charter Review Committee


DECISION AGENDA

c. Audit Clarification

BOARD OF COUNTY COMMISSIONERS

INTER-OFFICE MEMORANDUM

TO: Bob Inzer
Leon County Clerk of Court

FROM: Herbert W. A. Thiele, Esq. 
County Attorney

DATE: December 28, 2009

SUBJECT: Charter Review Committee Proposed Amendments to Leon County
Home Rule Charter

Pursuant to the direction of the Leon County Charter Review Committee, please find enclosed a draft ordinance containing proposed amendments to Article III of the Leon County Home Rule Charter, relating to the Clerk of the Court's duties as County Commission Auditor, for your review and suggestions. We have made the proposed changes in legislative format for your ease of consideration. Please contact our office once you have had an opportunity to review same so that we can further discuss this matter.

HWAT/PTK/plp
Encl.

cc: John Stott, Chief Deputy Clerk
Gypsy C. Bailey, Esq., Staff Counsel and Director of Courts
Parwez Alam, County Administrator
Shington Lamy, Special Projects Coordinator ✓
Kurt Spitzer

ORDINANCE NO. 2010-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA; AMENDING ARTICLE III, ELECTED COUNTY CONSTITUTIONAL OFFICERS; AMENDING SECTION 3.1, PRESERVATION OF CONSTITUTIONAL OFFICES; AMENDING SECTION 3.3, CLERK AUDITOR; PROVIDING FOR A BALLOT QUESTION TO BE POSED TO THE LEON COUNTY ELECTORATE AT THE SPECIAL ELECTION ON _____; PROVIDING FOR THE BALLOT QUESTION FORM; PROVIDING FOR FUTHER AUTHORIZATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida,

that:

Section 1. Article III, Section 3.1 of the Home Rule Charter of Leon County, Florida, is hereby amended to read as follows:

Sec. 3.1. Preservation of constitutional offices.

The offices of the Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independently elected constitutional offices, and the status, powers, duties and functions of such offices, shall not be altered by this Home Rule Charter, or any revisions or amendments hereto, except as specifically provided herein in Section 5.2 below. The constitutional officers shall perform their executive and administrative functions as provided by law.

Section 2. Article III, Section 3.3 of the Home Rule Charter of Leon County, Florida, is hereby amended to read as follows:

Sec. 3.3. Clerk auditor.

1 (1) The Leon County Clerk of the Court shall serve as the Auditor to the Commission
2 as specified herein by law. The Clerk as Auditor shall conduct a pre-audit review of all county
3 expenditures prior to disbursement of funds, and the accounts of the County Commission shall
4 be subject to the inspection and examination of the Auditor. Postpayment, operational, financial,
5 or performance audits of County Commission accounts and records may only be performed by
6 the Auditor upon the direction or consent of the County Commission. The Clerk shall employ a
7 Certified Internal Auditor, Certified Public Accountant, or such other person qualified by
8 education or experience in governmental accounting, internal auditing practices and fiscal
9 controls, which shall include at least five (5) years experience in professional accounting,
10 auditing, governmental fiscal administration or related experience, unless the Clerk holds such
11 qualifications. The Board of County Commissioners shall fund the audit function of the Clerk.

12 (2) Audit Committee. There shall be a five member Audit Committee of which two
13 members shall be appointed by the County Commission and three by the Clerk. The Audit
14 Committee shall adopt an annual plan of work for the Auditor and shall oversee the work of the
15 Auditor. The Audit Committee may recommend the Auditor conduct postpayment, operational,
16 financial, or performance audits of County Commission accounts. The Audit Committee
17 members shall be residents of Leon County, none of whom may be an employee or officer of
18 County government, and who have experience as a public accountant, internal auditor, or as a
19 financial manager for a public, private or not for profit institution. The purpose of the
20 Committee is to promote, maintain, and enhance the independence and objectivity of the internal
21 audit function by ensuring broad audit coverage, adequate consideration of audit reports, and
22 appropriate action on recommendations. Clerk shall provide for the organization and duties of

1 the audit committee, including membership terms, voting procedures, officers, sub-committees,
2 meeting schedules and staff support.

3 **Section 3. Ballot Question To Be Presented To Electorate.**

4 The proposed amendments to the Home Rule Charter of Leon County, Florida, shall be
5 presented to the qualified Leon County electorate by placing the question of whether to adopt
6 same on the ballot at the special election to be held on _____.

7 **Section 4. Ballot Question Form.**

8 The question on the ballot shall be substantially in the following form:

9 **AMENDMENT TO HOME RULE CHARTER OF LEON COUNTY, FLORIDA**
10 **AS PROPOSED BY LEON COUNTY ORDINANCE NO. 2010-____**

11 Question

12 _____
13 _____
14 _____
15 _____
16 _____

17
18 Yes for Approval _____

19
20 No for Rejection _____
21

22 **Section 5. Further Authorization.**

23 The Board of County Commissioners of Leon County, Florida, is authorized to adopt all
24 resolutions and take all actions necessary in order for this Charter amendment referendum to be
25 properly placed on the ballot for the special election of _____. Said referendum
26 shall be conducted according to the requirements of law governing referendum elections in the
27 State of Florida.

28 **Section 6. Severability.**

1 If any word, phrase, clause, section or portion of this ordinance shall be held invalid or
2 unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a
3 separate and independent provision and such holding shall not affect the validity of the
4 remaining portions thereof.

5 **Section 7. Effective Date.**

6 This ordinance shall have effect upon becoming law, but shall be of no further force or
7 effect if the proposed Charter amendments are not duly approved at the
8 _____, special election. The amendments to the Home Rule Charter of
9 Leon County, Florida, as proposed by this Ordinance, shall become effective
10 _____, if the Charter amendment is approved by a "yes" vote by a majority
11 of those duly qualified electors voting on the question posed at the _____,
12 referendum.

13 DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon
14 County, Florida, this _____ day of _____, 2010.

15
16 LEON COUNTY, FLORIDA
17

18
19 By: _____
20 Bob Rackleff, Chairman
21 Board of County Commissioners
22

23
24 ATTESTED BY:
25 BOB INZER, CLERK OF THE COURT
26 LEON COUNTY, FLORIDA
27

28
29 By: _____
30 Clerk
31
32

1 APPROVED AS TO FORM:
2 COUNTY ATTORNEY'S OFFICE
3 LEON COUNTY, FLORIDA
4

5
6 By: _____
7 Herbert W. A. Thiele, Esq.
8 County Attorney



Bob Inzer

Clerk of Circuit Court
WWW.CLERK.LEON.FL.US

Clerk of Courts ❖ Clerk of County Commission ❖ Auditor ❖ Treasurer ❖ Recorder ❖ Custodian of County Funds

January 19, 2010

Herbert W. A. Thiele, Esq.
County Attorney
Leon County Courthouse
301 S. Monroe Street
Tallahassee, FL 32301

Dear Herb:

I am in receipt of your memorandum to the Charter Review Committee responding to its request for revised language providing clear and specific authority for the Clerk to audit. I submitted your letter to my auditor for his comment; attached is his response.

I agree with his conclusion that the language fails to accomplish the stated direction from the committee. As I understand the current confusion, it is the inclusion of the four words, "as provided by law" in the authorizing language in the Charter. If these words were removed, then the language would be self-executing and not dependent upon any restrictions that may, in the future, be adopted by the Legislature or court rule. Clearly, if the citizens of Leon County chose to modify the authority, this would not impair their rights.

I believe the easy fix is as stated in the auditor's letter attached; namely, elimination of the phrase, "as provided by law".

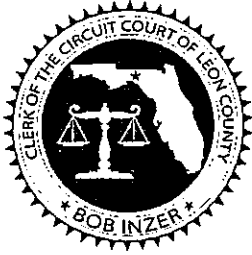
I will be taking this to the Audit Committee for its review this week and, if there are other suggestions it recommends, will forward them at that time. Please call if you have any questions.

Sincerely,

Bob Inzer, Clerk
Leon County Circuit Court

BI/cam
Attachment

cc: John Stott, Chief Deputy Clerk
Gypsy C. Bailey, Esq., Staff Counsel and Director of Courts
Parwez Alam, County Administrator
Shington Lamy, Special Projects Coordinator
Sam Scallan, Auditor, Clerk's Internal Auditing Division
Kurt Spitzer



Bob Inzer

Clerk of Circuit Court
WWW.CLERK.LEON.FL.US

Clerk of Courts ❖ Clerk of County Commission ❖ Auditor ❖ Treasurer ❖ Recorder ❖ Custodian of County Funds

January 11, 2010

The Honorable Bob Inzer
Clerk of the Circuit Court
301 Monroe Street
Tallahassee, FL 32301

SUBJECT: Proposed Revisions to County Charter Language

Dear Mr. Inzer:

I received a copy of the proposed revisions to the County Charter (attached) drafted by the County Attorney. To insure that I understood the direction the County Attorney was given by the Charter Review Committee, I watched excerpts of the video of the December meeting. I believe the committee made two points with regard to the role of the Clerk as Auditor. First, the committee wants to eliminate any confusion regarding the Clerk's authority to audit by eliminating any reference to current state law so that the outcome of any court case or changes in state law would have no affect on the audit function in Leon County. Secondly, you indicated during that meeting and it was the general consensus of the committee that the scope of audit authority currently exercised was working well and the committee wanted it kept that way.

Below is one of the excerpts of language proposed by the County Attorney in response to the direction given at that meeting.

The Clerk as Auditor shall conduct a pre-audit review of all county expenditures prior to disbursement of funds, and the accounts of the County Commission shall be subject to the inspection and examination of the Auditor. Postpayment, operational, financial, or performance audits of County Commission accounts and records may only be performed by the Auditor upon the direction or consent of the County Commission.

I'd like to offer some thoughts. First, my reading of the language limits the scope of audit to expenditures alone eliminating the ability to audit the revenue stream authority you currently have. This language would preclude audits of probation and pre-trial fees for instance, an audit that is included in the current work plan

The Honorable Bob Inzer
Proposed Revisions to County Charter Language
January 11, 2010
Page 2

for this year, unless the County Commission took formal action to request. The second sentence in the proposed language would preclude us from auditing the fuel disbursements, EMS, Bank of America and a number of other audits that we have completed in the past absent receiving direction from the Commission.

I think this is inconsistent with the direction of the committee and clearly limits and impairs the independence of the auditing process.

I believe there is a simple solution. The language in the existing Charter is, "*The Leon County Clerk of the Court shall serve as Auditor to the Commission as provided by law.*" The language that creates the problem is the last four words, *as provided by law*. If these words are stricken from the charter, then any ambiguity is eliminated in the Charter.

I'd like to discuss the above when you have time.

Respectfully,



Samuel S. Scallan, Supervisor
Internal Auditing

cc: John Stott, Chief Deputy Clerk

Leon County Citizen Charter Review Committee

DECISION AGENDA

d. Petition Threshold

Sec. 4.1. Citizen Initiative.

(1) Right to Initiate.

The electors of Leon County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances, not in conflict with the Florida Constitution, general law or this Charter, upon petition signed by at least ~~ten~~seven percent ~~(10%)~~(7%) of the total number of electors qualified to vote in the County reflecting not less than ~~ten~~five percent ~~(10%)~~(5%) of the total number of electors qualified to vote within each of the five (5) commission districts. The total number of electors qualified shall mean the total number of electors qualified to vote in the last preceding general election.

(2) Procedure for Petition.

The sponsor of an initiative shall, prior to obtaining any signatures, submit the text of a proposed ordinance to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed and obtain a dated receipt therefor. Any such ordinances shall embrace but one (1) subject and matter directly connected therewith. The sponsor shall cause a notice of such submission to be published within fourteen (14) days thereof in a newspaper of general circulation in the County. The allowable period for obtaining signatures on the petition shall be completed not later than one (1) year after initial receipt of the petition by the Supervisor of Elections. The sponsor shall comply with all requirements of general law for political committees, and shall file quarterly reports with the Supervisor of Elections stating, to the best of the sponsor's information and belief, the number of signatures procured. The time and form of such reports may be prescribed by ordinance. When a sufficient number of signatures is obtained, the sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections, and upon submission, shall pay all fees required by general law.

The Supervisor of Elections shall, within sixty (60) days after submission of signatures, verify the signatures thereon, or specify a reason for the invalidity of each rejected signature, if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days of submission of additional signatures, verify the additional signatures. In the event sufficient signatures are still not acquired, the Supervisor of Elections shall declare the petition null and void and none of the signatures may be carried over onto another identical or similar petition.

(3) Consideration by Board of County Commissioners.

Within sixty (60) days after the requisite number of signatures has been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall give notice and hold public hearing(s) as required by general law on the proposed ordinance and vote on it. If the Board fails to enact the proposed ordinance it shall, by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered electors voting on the question, the proposed ordinance shall be declared, by resolution of the Board of County Commissioners, to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative prior to the next succeeding general election, without the approval of a majority of the electors voting at a referendum called for that purpose.

(4) Limitation on Ordinances by Initiative.

The power to enact, amend or repeal an ordinance by initiative shall not include ordinances or provisions related to County budget, debt obligations, capital improvement programs, salaries of County officers and employees, the assessment or collection of taxes, or the zoning of land.

IX. (2): Staff/Consultant Discussion

IX. (3): Member Discussion

X.

**ADJOURNMENT WITH DAY FIXED FOR
NEXT MEETING**